

Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 207

HOUSE BILL 2217

AN ACT

AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3723; RELATING TO UTILITY SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 37, Arizona Revised Statutes, is amended
3 by adding section 13-3723, to read:

4 13-3723. Obtaining utility service fraudulently;
5 classification; definitions

6 A. IT IS UNLAWFUL FOR ANY CUSTOMER OR PERSON TO INTENTIONALLY DO ANY
7 OF THE FOLLOWING:

8 1. MAKE A CONNECTION OR RECONNECTION WITH PROPERTY THAT IS OWNED OR
9 USED BY A UTILITY TO PROVIDE UTILITY SERVICE WITHOUT THE AUTHORIZATION OR
10 CONSENT OF THE UTILITY.

11 2. PREVENT A UTILITY METER OR OTHER DEVICE THAT IS USED TO DETERMINE
12 THE CHARGE FOR UTILITY SERVICES FROM ACCURATELY PERFORMING ITS MEASURING
13 FUNCTION.

14 3. TAMPER WITH PROPERTY THAT IS OWNED OR USED BY A UTILITY.

15 4. USE, RECEIVE OR OTHERWISE DIVERT UTILITY SERVICES WITHOUT THE
16 AUTHORIZATION OR CONSENT OF THE UTILITY IF THE CUSTOMER OR PERSON KNOWS OR
17 HAS REASON TO KNOW OF THE UNLAWFUL DIVERSION, TAMPERING OR CONNECTION.

18 5. DIVERT OR CAUSE TO BE DIVERTED UTILITY SERVICES BY ANY MEANS.

19 B. THERE IS A REBUTTABLE PRESUMPTION THAT THE CUSTOMER OR PERSON
20 INTENTIONALLY VIOLATED AN ACT SPECIFIED IN THIS SECTION IF ANY OF THE
21 FOLLOWING OCCURS:

22 1. AN INSTRUMENT, APPARATUS OR DEVICE THAT WAS INSTALLED TO OBTAIN
23 UTILITY SERVICE WITHOUT PAYING THE FULL CHARGE IS FOUND ATTACHED TO THE METER
24 OR OTHER DEVICE THAT IS USED TO PROVIDE THE UTILITY SERVICE ON THE PREMISES
25 CONTROLLED BY THE CUSTOMER OR BY THE PERSON WHO USES OR RECEIVES THE UTILITY
26 SERVICE.

27 2. A METER WAS ALTERED, TAMPERED WITH OR BYPASSED RESULTING IN NO
28 MEASUREMENT OR AN INACCURATE MEASUREMENT OF UTILITY SERVICES.

29 3. THE CUSTOMER, PERSON OR OWNER IS AN OCCUPANT OF THE PREMISES OR HAS
30 AN ACCESS TO THE SYSTEM FOR DELIVERY OF THE SERVICE TO THE PREMISES AND
31 RECEIVES A BENEFIT FROM TAMPERED OR BYPASSED EQUIPMENT.

32 C. THE PRESUMPTION PROVIDED IN SUBSECTION B SHIFTS THE BURDEN OF GOING
33 FORWARD WITH THE EVIDENCE AND DOES NOT SHIFT THE BURDEN OF PROOF TO THE
34 DEFENDANT.

35 D. OBTAINING UTILITY SERVICE FRAUDULENTLY IS A CLASS 6 FELONY.

36 E. FOR THE PURPOSES OF THIS SECTION:

37 1. "CUSTOMER" MEANS THE PERSON IN WHOSE NAME A UTILITY SERVICE IS
38 PROVIDED.

39 2. "DIVERT" MEANS TO CHANGE THE INTENDED COURSE OR PATH OF
40 ELECTRICITY, GAS OR WATER WITHOUT THE AUTHORIZATION OR CONSENT OF THE
41 UTILITY.

42 3. "RECONNECTION" MEANS THE RESTORATION OF UTILITY SERVICE TO A
43 CUSTOMER OR PERSON AFTER SERVICE HAS BEEN LEGALLY DISCONNECTED BY THE
44 UTILITY.

1 4. "TAMPER" MEANS TO REARRANGE, DAMAGE, ALTER, INTERFERE WITH OR
2 OTHERWISE PREVENT THE PERFORMANCE OF A NORMAL OR CUSTOMARY FUNCTION,
3 INCLUDING ANY OF THE FOLLOWING:

4 (a) CONNECTING ANY WIRE, CONDUIT OR DEVICE TO ANY SERVICE,
5 DISTRIBUTION OR TRANSMISSION LINE THAT IS OWNED OR USED BY A UTILITY.

6 (b) DEFACING, PUNCTURING, REMOVING, REVERSING OR ALTERING ANY METER
7 OR ANY CONNECTIONS TO SECURE UNAUTHORIZED OR UNMEASURED UTILITY SERVICE.

8 (c) PREVENTING ANY METER FROM PROPERLY MEASURING OR REGISTERING.

9 (d) KNOWINGLY TAKING, RECEIVING, USING OR CONVERTING TO PERSONAL USE
10 OR THE USE OF ANOTHER PERSON ANY UTILITY SERVICE WITHOUT AUTHORIZATION OR
11 CONSENT.

12 (e) CAUSING, PROCURING, PERMITTING, AIDING OR ABETTING ANY PERSON TO
13 DO ANY OF THE ACTS LISTED IN THIS PARAGRAPH.

14 5. "UTILITY" MEANS ANY PUBLIC SERVICE CORPORATION, AGRICULTURAL
15 IMPROVEMENT DISTRICT OR OTHER PERSON THAT IS ENGAGED IN THE GENERATION,
16 TRANSMISSION OR DELIVERY OF ELECTRICITY, WATER OR NATURAL GAS, INCLUDING THIS
17 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.

18 6. "UTILITY SERVICE" MEANS THE PROVISION OF SERVICES OR COMMODITIES
19 BY THE UTILITY FOR COMPENSATION.

APPROVED BY THE GOVERNOR MAY 10, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2004.



Passed the House March 8, 2004,

Passed the Senate April 15, 2004,

by the following vote: 39 Ayes,

by the following vote: 29 Ayes,

19 Nays, 2 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmian Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2217

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 4, 2004,

by the following vote: 47 Ayes,

5 Nays, 8 Not Voting

Jake Flake
Speaker of the House
Herman L. Tyore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

4th day of May, 2004,

at 4:45 o'clock P. M.

Jennifer Upbarra
Secretary to the Governor

Approved this 10 day of

May, 2004,

at 11³⁵ o'clock A. M.

J. N. K.
Governor of Arizona

H.B. 2217

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of May, 2004

at 1:22 o'clock P. M.

Janice K. Brewer
Secretary of State